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Note verbale dated 27 July 2009 from the Permanent Mission of Austria to the United Nations addressed to the Acting Chairman of the Committee

The Permanent Mission of Austria to the United Nations presents its compliments to the Acting Chairman of the Committee and, with reference to the request in the Committee note dated 29 June 2009, has the honour to transmit herewith the report of Austria on its implementation of resolutions 1718 (2006) and 1874 (2009) (see annex).

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Annex to the note verbale dated 27 July 2009 from the Permanent Mission of Austria to the United Nations addressed to the Acting Chair of the Committee

Security Council resolutions 1718 (2006) and 1874 (2009) Implementation by Austria

1. Austria and the other member States of the European Union (EU) have jointly implemented the restrictive measures against the Democratic People's Republic of Korea imposed by the Security Council in its resolutions 1718 (2006) and 1874 (2009) by taking the following common measures:

- Council Common Position No. 2006/795/CFSP of 20 November 2006 concerning restrictive measures against the Democratic People's Republic of Korea
- Council Regulation (EC) No. 329/2007 of 27 March 2007 concerning restrictive measures against the Democratic People's Republic of Korea
- Commission Regulation (EC) No. 117/2008 of 28 January 2008 amending Council Regulation (EC) No. 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea
- Commission Regulation (EC) No. 389/2009 of 12 May 2009 amending Council Regulation (EC) No. 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea
- A Council common position implementing Security Council resolution 1874 (2009) to be adopted without delay

2. In addition, the competent Austrian authorities will apply the following Austrian legislation in implementing the restrictive measures against the Democratic People's Republic of Korea imposed by the Security Council in resolution 1874 (2009):

- With regard to the obligations contained in paragraphs 9 and 10 of Security Council resolution 1874 (2009), the War Materials Act (Federal Law Gazette I No. 57/2001, as amended), the Foreign Trade Act (Federal Law Gazette I No. 50/2005, as amended) and Foreign Trade Regulation (Federal Law Gazette II No. 121/2006) require an export authorization for the sale, supply, transfer or export of arms and related materiel to third countries and an authorization for the provision of brokering services related to military activities. According to the relevant provisions of these instruments, no authorization may be granted to export war materials, etc., to countries under a United Nations or an EU arms embargo. Non-compliance with the War Materials Act or the Foreign Trade Act constitutes a criminal offence punishable by up to five years of imprisonment or payment of a fine of up to 360 daily rates.

  In addition, the Austrian Penal Code (Federal Law Gazette I No. 60/1974, as amended) stipulates that illegal military assistance or support to a party to an armed conflict to which the Republic of Austria is not a party, including the supply of war material in violation of the existing legislation, is punishable by up to five years of imprisonment.

- With regard to the obligation contained in paragraph 18 of Security Council resolution 1874 (2009), relating to the freezing of funds, other financial assets and economic resources, the Austrian Exchange Control Act (Federal Law Gazette I No. 123/2003) stipulates that non-compliance with regulations of the European Community or relevant Austrian Federal Government regulations concerning the freezing of funds is a criminal offence punishable by up to one year of imprisonment.

- With regard to the obligation contained in paragraph 8 (e) of Security Council resolution 1718 (2006), as referred to in paragraph 18 of Security Council resolution 1874 (2009), to prevent the entry into or transit through the territory of the Republic of Austria of the persons designated by the Sanctions Committee or by the Security Council as being responsible for, including through supporting or promoting, Democratic People's Republic of Korea policies in relation to the Democratic People's Republic of Korea nuclear-related, ballistic missile-related and other weapons of mass destruction-related programmes, the Austrian Aliens Police Law (Federal Law Gazette I No. 157/2005, as amended) and the Law on Residence (Federal Law Gazette I No. 100/2005, as amended) empower the competent Austrian authorities to impose the appropriate travel or entry restrictions. The necessary instructions were issued immediately after the designation of such persons by the Sanctions Committee or by the Security Council on 16 July 2009.

- With regard to the obligations contained in paragraphs 19 and 20 of Security Council resolution 1874 (2009), Council Regulation (EC) No. 329/2007 is directly applicable and prohibits the direct or indirect provision of financing or financial assistance related to goods and technology specified in the EU common list of military equipment and in the annex to the regulation. This includes export credit insurance. The Austrian cover policy and the agreements between the competent Austrian authorities and Austria's official export credit agency were amended in order to ensure that no grants, financial assistance, and concessional loans, except for humanitarian and developmental purposes, are conceded to the Government of the Democratic People's Republic of Korea.